

REMARKS

Claims 1 and 4-8 Are Allowable

The Office has rejected claims 1 and 4-8, at paragraph 4 of the Office Action, under 35 U.S.C. § 102 as being anticipated by U.S. Patent No. 6,981,039 (“Cerami”). Applicants respectfully traverse the rejections.

For a reference to anticipate a claim, the reference must teach every element of the claim. Cerami does not anticipate claim 1 because Cerami does not teach every element of claim 1. For example, Cerami does not teach “inquiring, from a remote location, a status of an upper-layer communication indicator wherein the status is observable by a visual inspection of the indicator by an end-user,” as recited in claim 1. The Office asserts this feature is taught by column 10, lines 13-18 of Cerami. However, in contrast to claim 1, Cerami discloses that the fault management system receives multiple failures from the network. The fault management system determines the root cause (i.e., status) of the failure. *See Cerami, col. 9, lines 40-45.* Cerami discloses that a fault management system must query “the network to determine and isolate the cause” of an alarm or failure. *See Cermai, col. 10, lines 26-28.* The fault management system runs unattended without the need of supervision for monitoring and reacting to alarms reported by the network. *See Cerami, col. 13, lines 25-28.* Thus, with Cerami, there is no motivation or suggestion of an end user performing a visual inspection of a communication indicator to observe the status of upper-layer communications since the fault management system disclosed by Cerami attempts to automatically detect and resolve problems. *See Cerami, col. 5, lines 22-25.* Accordingly, Cerami does not teach “inquiring, from a remote location, a status of an upper-layer communication indicator wherein the status is observable by a visual inspection of the indicator by an end-user,” as recited in claim 1. Therefore, claim 1 is allowable. Claims 4-8 depend from claim 1, which Applicants have shown to be allowable. Accordingly, claims 4-8 are also allowable.

Claims 2, 9, and 11-16 Are Allowable

The Office has rejected claims 2, 9 and 11-16, at paragraph 6 of the Office Action, under 35 U.S.C. § 103 as being unpatentable over U.S. Patent No. 6,981,039 (“Cerami”) in view of U.S. Patent No. 7,092,375 (“Pitsoulakis”). Applicants respectfully traverse the rejections.

It is clearly established that the mere fact that the claimed invention is within the capabilities of one of ordinary skill in the art is not sufficient, by itself, to establish *prima facie* obviousness. *See* MPEP 2143.01. Furthermore, the level of skill in the art cannot be relied upon to provide the suggestion to modify or combine the references. *See, B.G., A1-Site Corp., v. VSI Int'l Inc.*, 174 F.3d 1308, 15 USPQ2d 1161 (Fed. Cir. 1999). The threshold question, therefore, is not whether a person having skill in the art would be able to make the claimed invention. Rather, a *prima facie* case of obviousness requires some suggestion or motivation in the references to combine the reference teachings. Cerami discloses a method for managing a network that delivers telephony or high speed data to customers. In contrast, Pitsoulakis discloses a method to locally network multiple client computers and phones together to share a single DSL line and Internet connection. Thus, it is not clear why one skilled in the art would combine Cerami with Pitsoulakis and there is no suggestion or motivation in the references to combine them.

The Office has failed to provide a *prima facie* case of obviousness for claim 2, which depends from claim 1. As stated above, Cerami does not teach every element of claim 1. Similarly, Pitsoulakis does not teach or suggest “inquiring, from a remote location, a status of an upper-layer communication indicator wherein the status is observable by a visual inspection of the indicator by an end-user,” as recited in claim 1. In contrast with claim 1, Pitsoulakis discloses an integrated access device that provides multiple communication interfaces for communications to a variety of service providers. It allows users to physically network multiple client computers and phones together to share a single DSL line and Internet connection. *See* Pitsoulakis, col. 4, lines 26-29. Thus, Pitsoulakis does not teach or suggest every element of claim 1. Therefore, neither Cerami nor Pitsoulakis, individually or in combination, teach or suggest every element of claim 1. Therefore, claim 2, which depends from claim 1, is allowable.

The cited portions of Cerami and Pitsoulakis fail to disclose or suggest the specific combination of claim 9. For example, Cerami does not teach “a first status indicator, positioned at the local location, configured for visual inspection by an end-user to communicate at least a layer 3 or above communication status between the computer and the service provider device,” as recited in claim 9. The Office asserts this feature is taught by column 10, lines 13-18 of Cerami. However, in contrast to claim 9, Cerami discloses that the fault management system receives multiple failures from the network. The fault management system determines the root cause (i.e., status) of the failure. *See* Cerami, col. 9, lines 40-45. Cerami discloses that a fault management system must query “the network to determine and isolate the cause” of an alarm or failure. *See* Cermai, col. 10, lines 26-28. The fault management system runs unattended without the need of supervision for monitoring and reacting to alarms reported by the network. *See* Cerami, col. 13, lines 25-28. Thus, with Cerami, there is no motivation or suggestion of an indicator configured for visual inspection by an end-user to communicate the communication status between the computer and the service provider device as the fault management system disclosed by Cerami attempts to automatically detect and resolve problems. *See* Cerami, col. 5, lines 22-25. Accordingly, Cerami does not teach “a first status indicator, positioned at the local location, configured for visual inspection by an end-user to communicate at least a layer 3 or above communication status between the computer and the service provider device,” as recited in claim 9. Further, Pitsoulakis does not disclose this element of claim 9. Instead, Pitsoulakis discloses an integrated access device that provides multiple communication interfaces for communications to a variety of service providers. It allows users to physically network multiple client computers and phones together to share a single DSL line and Internet connection. *See* Pitsoulakis, col. 4, lines 26-29. Therefore, Cerami and Pitsoulakis, separately or in combination, do not disclose or suggest each and every element of claim 9. Hence claim 9 is allowable.

Claims 11-15 depend from claim 9, which Applicants have shown to be allowable. Accordingly, claims 11-15 are also allowable, at least by virtue of their dependence from claim 9.

The cited portions of Cerami and Pitsoulakis fail to disclose or suggest the specific combination of claim 16. For example, Cerami does not teach “inquiring, from the remote service terminal, a status of a visual upper-layer communication indicator associated with a

digital subscriber line (DSL) terminating at the DSL connection of the end-user computer at the local site, wherein the status is observable by a visual inspection of the indicator by an end-user,” as recited in claim 16. The Office asserts this feature is taught by column 10, lines 13-18 of Cerami. As explained above, Cerami discloses that the fault management system receives multiple failures from the network. The fault management system determines the root cause (i.e., status) of the failure. *See* Cerami, col. 9, lines 40-45. Cerami discloses that a fault management system must query “the network to determine and isolate the cause” of an alarm or failure. *See* Cermai, col. 10, lines 26-28. The fault management system runs unattended without the need of supervision for monitoring and reacting to alarms reported by the network. *See* Cerami, col. 13, lines 25-28. Thus, with Cerami, there is no motivation or suggestion that the communication status is observable by a visual inspection of the indicator by an end-user since the fault management system disclosed by Cerami attempts to automatically detect and resolve problems. *See* Cerami, col. 5, lines 22-25. Accordingly, Cerami does not teach “inquiring, from the remote service terminal, a status of a visual upper-layer communication indicator associated with a digital subscriber line (DSL) terminating at the DSL connection of the end-user computer at the local site, wherein the status is determined by a visual inspection of the indicator by an end-user,” as recited in claim 16. Further, Pitsoulakis does not disclose this element of claim 16. Instead, Pitsoulakis discloses an integrated access device that provides multiple communication interfaces for communications to a variety of service providers. It allows users to physically network multiple client computers and phones together to share a single DSL line and Internet connection. *See* Pitsoulakis, col. 4, lines 26-29. Therefore, the cited portions of Cerami and Pitsoulakis, separately or in combination, do not disclose or suggest each and every element of claim 16. Hence claim 16 is allowable.

Claims 18 and 19 depend from claim 16, which Applicants have shown to be allowable. Accordingly, claims 18 and 19 are also allowable, at least by virtue of their dependence from claim 16.

Claims 3 and 17 Are Allowable

The Office has rejected claims 3 and 17, at paragraph 7 of the Office Action, under 35 U.S.C. § 103 as being unpatentable over U.S. Patent No. 6,981,039 (“Cerami”) in view of U.S. Patent No. 7,092,364 (“Franklin”). Applicants respectfully traverse the rejections.

As previously discussed, Cerami fails to disclose or suggest that the communications status is observable by a visual inspection of the indicator by an end-user, as in claims 1 and 16. Franklin fails to overcome the deficiencies of Cerami. Instead, Franklin discloses systems for automated troubleshooting of DSL provisioning. *See Franklin, col. 2, lines 29-30.* Franklin discloses monitoring the provisioning of the DSL services by gathering data from management systems and network elements and when an unacceptable delay is detected in the provisioning process, the system automatically generates an alert. *See Franklin, col. 2, lines 30-35.* However, Franklin fails to disclose or suggest that the communications status is observable by a visual inspection of the indicator by an end-user, as in claims 1 and 16. Hence, the asserted combination of Cerami and Franklin fails to disclose or suggest at least one element of each of the independent claims 1 and 16, and of claims 3 and 17, at least by virtue of their dependency from claims 1 and 16. Accordingly, claims 3 and 17 are allowable over the combination of Cerami and Franklin.

Claim 10 Is Allowable

The Office has rejected claim 10, at paragraph 8 of the Office Action, under 35 U.S.C. § 103 as being unpatentable over U.S. Patent No. 6,981,039 (“Cerami”) in view of U.S. Patent No. 7,092,375 (“Pitsoulakis”), and further in view of U.S. Patent No. 7,092,364 (“Franklin”). Applicants respectfully traverse the rejection.

As explained above, Cerami and Pitsoulakis fail to disclose or suggest “a first status indicator, positioned at the local location, configured for visual inspection by an end-user to communicate at least a layer 3 or above communication status between the computer and the service provider device,” as recited in claim 9. Franklin fails to overcome the deficiencies of Cerami and Pitsoulakis. Instead, Franklin discloses systems for automated troubleshooting of DSL provisioning. *See Franklin, col. 2, lines 29-30.* Franklin discloses monitoring the provisioning of the DSL services by gathering data from management systems and network elements and when an unacceptable delay is detected in the provisioning process, the system automatically generates an alert. *See Franklin, col. 2, lines 30-35.* However, Franklin fails to disclose or suggest that the communication status indicator is configured for a visual inspection by an end-user, as in claim 9. Hence, the asserted combination of Cerami, Pitsoulakis, and Franklin fails to disclose or suggest at least one element of independent claim 9, and of claim 10,

at least by virtue of its dependency from claim 9. Accordingly, claim 10 is allowable over the combination of Cerami, Pitsoulakis, and Franklin.

CONCLUSION

Applicants have pointed out specific features of the claims not disclosed, suggested, or rendered obvious by the reference applied in the Office Action. Accordingly, Applicants respectfully request reconsideration and withdrawal of each of the rejections, as well as an indication of the allowability of each of the pending claims.

Any changes to the claims in this amendment, which have not been specifically noted to overcome a rejection based upon the prior art, should be considered to have been made for a purpose unrelated to patentability, and no estoppel should be deemed to attach thereto.

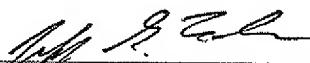
The Examiner is invited to contact the undersigned attorney at the telephone number listed below if such a call would in any way facilitate allowance of this application.

The Commissioner is hereby authorized to charge any fees, which may be required, or credit any overpayment, to Deposit Account Number 50-2469.

Respectfully submitted,

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Date


Jeffrey G. Toler, Reg. No. 38,342
Attorney for Applicant
Toler Law Group, Intellectual Properties
8500 Bluffstone Cove, Suite A201
Austin, Texas 78759
(512) 327-5515 (phone)
(512) 327-5575 (fax)